



**U.S. Department of Justice**

United States Attorney  
Southern District of New York

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86 Chambers Street  
New York, NY 10007

March 4, 2022

By ECF

The Honorable James L. Cott  
United States Magistrate Judge  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, New York 10007

Re: *International Refugee Assistance Project v. Dep't of Homeland Security, et al.*,  
No. 21 Civ. 9519 (JLC) (S.D.N.Y.)

Dear Judge Cott:

We write respectfully in accordance with the Court's order dated February 2, 2022, Dkt. No. 23, to provide the Court with a status update on this matter, which involves Freedom of Information Act ("FOIA") claims brought against the U.S. Department of State ("State") and U.S. Citizenship and Immigration Services ("USCIS") as well as Administrative Procedure Act ("APA") claims brought against State and the U.S. Department of Homeland Security ("DHS"). The parties have reached agreement regarding next steps in this matter. Accordingly, and as outlined in more detail below, we respectfully propose to file a status report by April 29, 2022, to further update the Court on the progress of this litigation. Plaintiff International Refugee Assistance Project has been consulted in the drafting of this letter and has informed defendants that it does not intend to file a response on March 11, 2022.

*FOIA Claims:* USCIS and State are currently in the process of responding to FOIA requests submitted by plaintiff, which are attached to plaintiff's complaint as Exhibits B and C.

USCIS has tasked key personnel within the National Records Center FOIA Program, which is responsible for responding to USCIS access requests made by the public, with searching for documents potentially responsive to plaintiff's FOIA request. USCIS is gathering documents that reflect current policies, procedures, guidance, and training materials utilized by USCIS to respond to FOIA requests and comply with the FOIA's affirmative disclosure requirements. USCIS intends to process 500 pages of responsive materials per month, with rolling productions to begin on March 16, 2022. Based on the agency's search results, USCIS believes that it can commit that those productions will be completed by August 16, 2022. Plaintiff consents to this procedure with the understanding that USCIS will complete these productions by August 16, 2022, but reserves the right to challenge the scope of the search employed by USCIS. Plaintiff further reserves the right to revisit and challenge production rates after August 16, 2022 in the event that defendants identify additional responsive records.

State has tasked key personnel within its Office of Information Programs and Services, State's central office responsible for responding to record access requests made by the public, with searching for documents potentially responsive to plaintiff's FOIA request. State is searching for documents that reflect current policies, procedures, guidance, and training materials utilized by State to respond to FOIA requests and comply with the FOIA's affirmative disclosure requirements. State intends to process 300 pages of responsive materials per month and, based on its anticipated search results, believes that it can commit to completing those productions by August 16, 2022. Plaintiff consents to this procedure with the understanding that State will complete these productions by August 16, 2022, but reserves the right to challenge the scope of the search employed by State. Plaintiff further reserves the right revisit and challenge production rates after August 16, 2022 in the event that defendants identify additional responsive records.

*APA Claims:* State and DHS have been in the process of reviewing their public Major Information Systems websites for compliance with the APA and FOIA's Major Information Systems requirement, 5 U.S.C. § 552(g).

State intends to update its Major Information Systems website and is currently working to determine the best process for ensuring that its listing complies with, and will continue to comply with, the requirements of 5 U.S.C. § 552(g). State believes that it can complete its update by mid-April and has proposed to notify plaintiff by April 15, 2022, of any updates it implements. Thereafter, plaintiff intends to review State's updated website to determine whether there is need for further litigation concerning this APA claim.

At this time, DHS continues to evaluate its Major Information Systems website but believes that its current website substantially complies with the requirements of 5 U.S.C. § 552(g), a point which plaintiff disputes. Nevertheless, DHS as well as State are continuing to evaluate recommendations made by plaintiff which plaintiff believes will improve the agencies' Major Information Systems websites.

The parties agree that it is appropriate to defer litigation about both State's and DHS's compliance with FOIA's Major Information Systems requirement until, at the earliest, after State has had the opportunity to update its website, DHS has had an opportunity to review plaintiff's recommendations, and the parties have exhausted any negotiations of such recommendations or resolved their differences. The parties accordingly propose to submit a further status update, and, as appropriate, a briefing schedule, to the Court by April 29, 2022, after State has completed its updates and plaintiff has had an opportunity to review State's updates.

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We thank the Court for its attention to this matter

Respectfully,

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